



## **AGENDA**

### **TRINITY CITY PLANNING & ZONING BOARD MEETING**

October 25, 2005  
7:00 pm

1. Call to Order
2. Pledge of Allegiance
3. Invocation
4. Approval of Minutes (September 27, 2005)
5. Public Comments Section
6. Subdivision Review – Colonial Village (*no public hearing*)
7. Conditional Zoning
8. Protest Petition
9. Agriculture Uses
10. Comments from the Board
11. Comments from Staff
12. Adjourn



## **TRINITY CITY PLANNING & ZONING BOARD MEETING**

October 25, 2005  
7:00 pm

The Trinity Planning Board held their October 25, 2005 Regular Meeting at Trinity City Hall. A quorum was present.

**PLANNING BOARD MEMBERS PRESENT:** Chairman J.R. Ewings; Planning Board members Linda Gantt, Vernel Gibson, Buddy Maness, Richard McNabb, Melvin Patterson, Robbie Sikes, and Jim Wall.

**PLANNING BOARD MEMBERS ABSENT:** None

**OTHERS PRESENT:** City Manager, Ann Bailie; Planning/Zoning Administrator and Code Enforcement Officer, Adam Stumb; City Clerk/FO Debbie Hinson; City Engineer, Jim Billups, Anderson and Associates; Council members, Bridges, Talbert, and other interested parties.

### **I. Call to Order**

Chairman Ewings called the October 25, 2005 Meeting to order at 7:00 p.m.

### **II. Pledge of Allegiance**

Chairman Ewings led the Pledge of Allegiance.

### **III. Invocation**

Planning Board member Vernel Gibson gave the invocation.

### **IV. Approval of Minutes (September 27, 2005)**

Chairman Ewings called for any changes or corrections to the September 27, 2005 Minutes.

Member Gantt and Member Gibson asked that a correction be made on page 2, paragraph 1. They asked that the minutes be changed to show the word “**are**” be deleted from this sentence. The corrected sentence in the minutes will read as follows; “**We do not know how many or the density of the street lights at this time but the lights will be maintained by Duke Power and the electric bill for the street lights will be paid by the city when they assume responsibility of the subdivision.**”

*With no other corrections, Planning Member Gibson made a motion to approve the minutes with the above correction, seconded by Planning member Gantt and approved unanimously by all Planning members present.*

### **V. Public Comments Section**

Chairman Ewings opened the meeting to any public comments. Hearing none, Chairman Ewings continued with the next item.

### **VI. Subdivision Review – Colonial Village (no public hearing)**

Chairman Ewings opened this item and asked Mr. Stumb to review this item with Planning members.

Mr. Stumb advised members that Davis-Martin-Powell and Associates had changed their plan to include the recommended changes by Anderson & Associates and had forwarded the revised plan to Anderson and Associates.

Mr. Billups advised members and Mr. Stumb that his firm had not received the revised plans, however as he had discussed at the Planning Board Meeting in September Anderson and Associates comments were all of a technical nature.

Mr. Stumb discussed the following outstanding issues with Board members.

A Homeowners Association will be formed for the retention ponds. They have submitted the deed restrictions but they did not include any information concerning the Homeowners Association. We are recommending that the Board go forward with this plan with the following 3 conditions.

1. A Homeowners Association will be established to maintain any common area including storm water control ponds. Documentation and articles of incorporation will be required prior to the pre construction meeting.
2. Construction will not begin until the City's development review engineer has approved the preliminary sit plan and utility design.
3. Prior to construction the developer's engineer, contractor and others associated with the construction of this subdivision will meet with the City of Trinity staff.

There was discussion concerning the responsibility and duties of the Homeowners Association for this subdivision between members, Mr. Stumb, and Manager Bailie. Board members discussed their feelings on the retention ponds becoming a responsibility for the city. Comments from Board members included the feeling that the city did not need the problems associated with these ponds. Manager Bailie discussed her feelings of how she saw these ponds becoming a city problem eventually. Members also discussed how the Homeowners Association would also help with other problems such as eliminating houses that develop needs for repairs that would not be made without a Homeowners Association.

Members, Mr. Stumb, and Manager Bailie discussed the restrictive covenants that would be placed on properties in this subdivision and the length of time that they would last. Mr. Stumb advised members that the restrictive covenants for this subdivision were written so that they were good for 25 years and will renew every 10 years after the 25 year period unless the majority or residents in this development protest the renewal.

After further discussion, and recommendation from staff to vote on this subdivision to include the 3 recommended conditions as listed above, Chairman Ewings called for a motion.

***Member Patterson made a motion to approve the subdivision with the 3 recommended conditions as follows:***

- 1. A Homeowners Association will be established to maintain any common area including storm water control ponds. Documentation and articles of incorporation will be required prior to the pre construction meeting.***
- 2. Construction will not begin until the City's development review engineer has approved the preliminary sit plan and utility design.***
- 3. Prior to construction the developer's engineer, contractor and others associated with the construction of this subdivision will meet with the City of Trinity staff.***

***The motion was seconded by member Gibson and approved unanimously 8 to 0.***

## **VII. Conditional Zoning**

After Chairman Ewings opened this item, Mr. Stumb reviewed this item with members. He discussed how this could be used to add some conditions as it was rezoned. Mr. Stumb began his review with what was currently used in the city regarding zoning and rezoning request.

1. **General Use Rezoning:** This is what this board sees on a regular basis when someone comes in and asks for their property to be rezoned in a certain district. General Zoning Use allows general zoning districts that allow specific permitted uses and special uses.
2. **Special Use and Conditional Use:** In this type of hearing there is a specific request for a specific use. A site plan will be required and often is a 2 step process. Additional conditions or uses can be permitted but must be agreed upon by all parties. This use only addresses specific uses such as apartments or daycares.
3. **Conditional Zoning:** This creates a zoning district that parallels the existing zoning districts. Everything that exists in current Zoning Ordinance will stand in this Conditional District, however in addition to this if a property owner feels he may have a problem getting his project approved they may go further and limit their zoning request to specific uses or add more buffering in addition to the requirements. It can address specific uses. This type of Zoning must be agreed upon by the property owner and can not be dictated by board members.
4. **Conditional Zoning Hearings:** Very similar to rezoning hearings with the only difference being that discussion may be held specifically about a project. In a General Rezoning you may ask what the intent of the person requesting the change is but they are not limited to a specific use. Though not required a Community Meeting can be held that would involve input from the public, developer and staff members in an effort to come to an agreement and add conditions that are agreeable to all parties to resolve or address issues of concern. Unlike a Special Use Hearing, persons speaking at a Conditional Zoning Hearing do not have to be sworn or under oath to speak.
5. **(Examples of Appropriate Conditions):** Limiting the uses, limiting the density, and can be used to require additional buffering of 50 feet at the rear of the property. Conditions should be specific.
6. **(Examples of Inappropriate Conditions)** Each dwelling unit shall be 3,000 square feet and the minimum price shall be \$150,000.00. Additional Landscaping shall be required (this condition must be specific; such as the number of trees that will be required). The same applies to parking as well. Parking spaces will need to be specified.

Conditional Zoning is new and a bill was passed this year by the North Carolina General Assembly allowing this kind of zoning. If city wants to go forward with this the amendments needed are listed below and were included in your packet.

There was discussion between Board members and Mr. Stumb concerning how this option could be used if an applicant did not agree to place additional conditions on his request. Mr. Stumb advised members Conditional Zoning could be used only if the applicant wanted to impose additional requirements on themselves. The applicant must agree with what might be suggested. There is not a lot that can be done for property that is already zoned Highway Commercial or Industrial. This will apply to new rezoning requests.

This zoning has advantages and disadvantages. It will give the board some oversight if the person developing the property is willing to impose some additional conditions. The disadvantage of this type of zoning is that with each rezoning request a new zoning district is created.

## **Amendments to the Ordinance if approved.**

### **Section 7-13 Conditional Zoning Districts**

#### **General Requirements**

1. **Application:** Only the property owner(s) of all the property to be included in the district shall apply for rezoning to an appropriate Conditional Zoning District. The owner(s) may specify the use(s) of the property and shall propose conditions to ensure compatibility between the development and the surrounding information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property.
2. **Other Regulations Apply:** Within a Conditional Zoning District, all requirements of any corresponding general zoning district, and all other requirements of this Ordinance, shall apply except to the extent that the approved conditions are more restrictive than those requirements.
3. **Uses Within District:** Within a parallel Conditional Zoning District, only those uses authorized by Section 7-13 (Permitted Uses) as allowed in the general zoning district to which the Conditional Zoning District corresponds shall be permitted. No use(s) shall be permitted except those use(s) authorized by the Conditional Zoning District approval.
4. **Conditions:** In a Conditional Zoning District, conditions may specify the location on the property of the proposed use(s); the number of dwelling units; the location and extent of supporting facilities such as parking lots, driveways, and access streets; the location and extent of buffer areas and other special purpose areas; the timing of development; the location and extent of rights-of-ways and other areas to be dedicated for public purposes; and other such matters as the applicant may propose as conditions upon request.
5. **Compliance with Approved Plan:** No permit shall be issued for any development activity within a Conditional Zoning District except in accordance with the approved Conditional Zoning Site Plan.
6. **Violation of Conditions:** Any violation of a condition in an approved Conditional Zoning District shall be treated the same as any other violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation. Any violation of such a condition shall be deemed to be the same type of violation as the use of a property for a use not permitted under the district regulations, for the same reason that any use permitted in a Conditional Zoning District is permitted only subject to the specified conditions.
7. **Cancellation of Site Plan Approval:** If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid, or if the applicant should fail to accept any condition, the approval of the Conditional Zoning Site.

#### **Procedure**

1. **Processing Application:** Applications for Conditional Zoning Districts shall be processed, considered, and voted upon in the same procedure as that required in Article XVII. No Conditional Zoning Site Plan shall be approved prior to approval of the Conditional Zoning District to which it applies.
2. **Application Consideration:** In considering applications for Conditional Zoning Districts, the Zoning Board and City Council shall give due regard that the purposes and intent of this Ordinance shall be served.

3. Conditions Perpetually Binding: Any conditions in association with a Conditional Zoning District and so authorized shall be perpetually binding upon the property included in such Conditional Zoning District unless subsequently changes or amended as provided for in this Article.
4. Greater Restrictions: In approving a Conditional Zoning District, the Planning and Zoning Board or City Council, upon request of the applicant, may impose only more restrictive requirements upon such districts as it may deem necessary in order that the purpose and intent of this Ordinance be served.
5. No removal of Other Requirements: No condition on a Conditional Zoning District application shall have the effect of removing or amending any requirements of this ordinance.
6. Submission of Site Plans: Conditional Zoning Site Plans for any development made pursuant to any Conditional Zoning District shall be submitted for review in the same manner as other development plans required by this ordinance.
7. Amendment of Permit Conditions: The Zoning Commission of City Council may change or amend a Conditional Zoning District in the same procedure as that required for the original approval of the Conditional Zoning District.
8. Timing of Amendment Proposal: No proposal to change or amend any Conditional Zoning District shall be considered within one (1) year after the date of the original approval of such district, or within one (1) year after the hearing of any previous proposal to change or amend such district.

The City would still have General Zoning and Special Use Zoning in addition to Conditional Zoning. By keeping the Special Use Zoning the requirements are placed on the project now and if the Special Use Permit is required then the developer must comply with the conditions set forth for the specific use described in the Special Use Section of the Ordinance.

*After a brief discussion, Member Patterson made a motion to forward this to Council, seconded by member Gibson, and approved unanimously by all members.*

#### **VIII. Protest Petition**

Chairman Ewings opened this item and asked Mr. Stumb to review this item with Planning members.

Mr. Stumb advised members this change came from the legislature in an effort to clarify the original language in this document as shown below.

#### **Section 17-2 Protest Against Amendment**

In case of a protest against such proposal, duly signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or five percent (5%) of a hundred foot wide buffer extending along the entire boundary of each area proposed to be rezoned. A street right of way shall not be considered in computing the 100 foot buffer area as long as the right-of-way is 100 feet wide or less. ~~of those immediately adjacent thereto, either in the rear thereof or on either side thereof, extending one hundred (100) feet there from or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots~~ Such amendments shall not become effective except by favorable vote of three-fourths (3/4) of all members of the City Council.

(20%) or more either of the area of the lots included in such proposed change, or five percent (5%) of a hundred foot wide buffer extending along the entire boundary of each area proposed to be rezoned. A street right of way shall not be considered in computing the 100 foot buffer area as long as the right-of-way is 100 feet wide or less.

A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment.

Only those protest petitions that meet the qualifying standards set forth in this ordinance shall trigger the supermajority voting requirement. Protest petitions must be filed with the City Clerk two business days prior to the City Council meeting where the request is to be heard.

There was discussion between Mr. Stumb, Planning members, Manager Bailie, and Council members of the audience concerning how persons found out about signing the petitions and who would sign. Manager Bailie advised members that the petition would need to be signed by owners, not renters of the property and that the petition would need to be turned in to Council 2 days prior to the Regular Council meeting.

***With no further discussion, Member McNabb made a motion to forward the Protest to the City Council for their consideration, seconded by Member Patterson and approved unanimously by all members present.***

## **IX. Agriculture Uses**

Chairman Ewings opened this item and asked Mr. Stumb to review this item with Planning members.

Mr. Stumb advised members that the city was allowing agriculture uses throughout the zoning districts with the exception in the district designated R-12. We also did not define what constitutes an agriculture use. In reviewing this section we realized that it was probably not a good idea to have this use in R-40, R-20, MFR, or the commercial or industrial districts. We felt the solution was to eliminate agriculture from all uses except for RA and included a definition that defines agricultural uses.

There was discussion between members and Mr. Stumb concerning what would happen if a property was rezoned to Commercial and if the owner that made the request still be allowed to use this property for agricultural uses such as corn or soybeans. Mr. Stumb advised members that if the property were an existing farm it would still be applicable to agricultural uses until sold. It is not our intent to eliminate farming but to provide something in the Ordinance that would eliminate someone adding a horse or pig farm adjacent to a residential area such as Steeplegate.

	<b>RA</b>	<b>R-40</b>	<b>R-20</b>	<b>R-12</b>	<b>MF-R</b>	<b>RM</b>	<b>O-I</b>	<b>CS</b>	<b>HC</b>	<b>M-1</b>	<b>M-2</b>
Agricultural Uses	X	X	X		X	X	X	X	X	X	X

### **Definitions:**

**Agriculture Uses** – The use for the growing and/or production of field crops, livestock, and livestock products for the production of income including but not limited to the following:

- (a) field crops including: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers.
- (b) livestock including: dairy and beef cattle, goats, horses, sheep, hog, poultry, game birds and other animals including ponies, deer, rabbits and mink.
- (c) livestock products including: milk, butter, cheese, eggs, meat, fur and honey.

There was discussion among members concerning how this could affect current property owners of large tracts of property in Trinity. After further discussion between members, Manager Bailie, and Mr. Stumb concerning changes recommended by staff, ***Member Sikes made a motion to leave the recommendation as presented for staff except to delete Item A from proposal as shown. (To strike Item A and submit Items B and C to council for consideration.) Member Patterson seconded the motion. The motion and second was approved unanimously by all Planning members present.***

**Recommended by motion and approved by Planning Board unanimously for Council Consideration:**

**Definitions:**

**Agriculture Uses – The use for the growing and/or production of field crops, livestock, and livestock products for the production of income including but not limited to the following:**

- (b) livestock including: dairy and beef cattle, goats, horses, sheep, hog, poultry, game birds and other animals including ponies, deer, rabbits and mink.**
- (c) livestock products including: milk, butter, cheese, eggs, meat, fur and honey.**

**X. Comments from the Board**

Chairman Ewings called for comments from Planning Board members.

**None**

**XI. Comments from Staff**

Chairman Ewings called for comments from staff.

Mr. Stumb advised members that he would print pages with numbers and update their Ordinance Books as requested. Member Patterson and Chairman Ewings advised Mr. Stumb that they did not have a book and needed to have a complete book or the Revised Ordinance made.

Council member Talbert advised members that he planned to discuss the Overlay Zoning with Council members during the next Pre-Agenda meeting since he was not present at the meeting where this was discussed earlier. I would like to discuss with fellow Council members my reasons for supporting this change and why I do not feel this is a restriction on development and how changes regarding this issue could be used to benefit the City in their growth.

**XII. Adjourn**

With no other business to discuss, Chairman Ewings called for a motion of adjournment of the October 27, 2005 meeting.

***Motion by member McNabb to adjourn the October 27, 2005 meeting, seconded by member Patterson and approved unanimously by all Planning members present.***

These minutes were approved as written by the Planning/Zoning Board at their November 22, 2005 Meeting upon motion by Planning member Gantt, seconded by Planning Member Sikes and approved unanimously by all Planning Members present.

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J.R. Ewings, Chairman

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Debbie Hinson, City Clerk